

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MIKE YELLEN,

Plaintiff, No. CIV S-94-1298 GEB DAD P

vs.

ANA M. OLIVAREZ, et al.,

Defendants. FINDINGS AND RECOMMENDATIONS

Plaintiff is a former state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff claims that his rights under the Eighth Amendment were violated during his incarceration at Deuel Vocational Institution (DVI) through exposure to contaminated water that was both unsafe to drink and unsanitary for bathing, cooking and maintaining oral hygiene. Plaintiff sought both money damages and injunctive relief. By order filed January 18, 2011, plaintiff's request for injunctive relief was dismissed as moot.

The record in this action reflects that plaintiff was released from state prison in 2004, and no activity in the action by plaintiff since January 2007. By order filed January 10, 2011, plaintiff was ordered to inform the court in writing within ten days whether he intends to prosecute this action further, and plaintiff was cautioned that failure to respond to that order

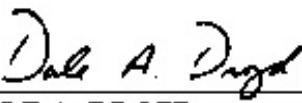
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1 would result in a recommendation that this action be dismissed. The ten day period has expired
2 and plaintiff has not responded in any way to the January 10, 2010 order.¹

3 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed for
4 lack of prosecution and for failure to respond to a court order. See Fed. R. Civ. P. 41(b); Local
5 Rule 110.

6 These findings and recommendations are submitted to the United States District
7 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen
8 days after being served with these findings and recommendations, any party may file written
9 objections with the court and serve a copy on all parties. Such a document should be captioned
10 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections
11 shall be served and filed within fourteen days after service of the objections. The parties are
12 advised that failure to file objections within the specified time may waive the right to appeal the
13 District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

14 DATED: January 25, 2011.

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17 DALE A. DROZD
18 UNITED STATES MAGISTRATE JUDGE
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24 ¹ Although it appears from the file that plaintiff's copy of the January 10, 2011 order was
25 returned to the court as undeliverable, plaintiff was properly served. It is the plaintiff's
26 responsibility to keep the court apprised of his current address at all times. Pursuant to Local
Rule 182(f), service of documents at the record address of the party is fully effective.